

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOHN ROBERT DEMOS, JR.,	)	CASE NO. C12-2274-RSL-JPD
	)	
Plaintiff,	)	
	)	
v.	)	REPORT AND RECOMMENDATION
	)	
ALEX KOSTIN, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	
	)	

On December 27, 2012, **bar-order litigant John Demos** applied for leave to proceed in forma pauperis (“IFP”) with a proposed civil-rights complaint. (Dkts. 1, 1-1, 3.) Plaintiff may submit only **three** IFP applications and proposed actions each year. *See In re John Robert Demos*, MC91-269-CRD (W.D. Wash. Jan. 16, 1992); *In re Complaints and Petitions Submitted by John Robert Demos* (W.D. Wash. Dec. 15, 1982). Furthermore, under 28 U.S.C. § 1915(g), plaintiff must demonstrate “imminent danger of serious physical injury” to proceed IFP because he has had numerous prior actions dismissed as frivolous, malicious, or for failure to state claim. *See Demos v. Lehman*, MC99-113-JLW (W.D. Wash. Aug. 23, 1999). An Order of this Court also provides for the return without filing of any petition by Mr. Demos that

01 seeks an extraordinary writ pursuant to 28 U.S.C. §§ 1651, 2253 or 2254, unless accompanied  
02 by the filing fee. *See Demos v. Stanley*, MC97-0031-JLW (W.D. Wash. Mar. 13, 1997).

03 Plaintiff already submitted three IFP applications and proposed actions in 2012. *See*  
04 *Demos v. United States*, C12-866-MJP-BAT (W.D. Wash., filed May 17, 2012); *Demos v.*  
05 *United States*, C12-867-TSZ-JPD (W.D. Wash., filed May 17, 2012); *Demos v. Fraker*,  
06 C12-915-RSM-MAT (W.D. Wash., filed May 24, 2012). Bar orders therefore prevent him  
07 from proceeding IFP with the present action, which was filed in 2012. Moreover, Mr.  
08 Demos's proposed complaint does not contain "a plausible allegation that the prisoner faced  
09 imminent danger of serious physical injury at the time of filing." *Andrews v. Cervantes*, 493  
10 F.3d 1047, 1055 (9th Cir. 2007) (internal citations omitted). Although Mr. Demos seeks  
11 damages for what he characterizes as a 42 U.S.C. § 1983 matter, he actually challenges the  
12 legality of his underlying state convictions, a claim that must be brought in a 28 U.S.C. § 2254  
13 habeas petition. (Dkt. 1-1, at 4–5.) To the extent Mr. Demos brings a § 2254 habeas petition,  
14 a standing order requires the rejection of his petition unless accompanied by a filing fee. The  
15 Court also notes that Mr. Demos inaccurately reports that his current conviction has been  
16 vacated by a state writ of habeas corpus when, in fact, his own attachment shows that the  
17 Clallam Superior Court case was dismissed. (Dkt. 1-1, at 9.)

18 The Court recommends DENYING plaintiff's IFP application (Dkt. 1) and  
19 DISMISSING the proposed complaint (Dkt. 1-1) without prejudice in accordance with standing  
20 bar orders and for failure to state a claim upon which relief may be granted. *See In re John*  
21 *Robert Demos*, MC91-269-CRD (W.D. Wash. Jan. 16, 1992); *In re Complaints and Petitions*

01 *Submitted by John Robert Demos* (W.D. Wash. Dec. 15, 1982); 28 U.S.C. §§ 1915(e)(2)(B)(ii),  
02 1915A(b)(1). A proposed Order is attached.

03 DATED this 21st day of March, 2013.

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05 JAMES P. DONOHUE  
06 United States Magistrate Judge  
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